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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/371,463	08/10/1999	GLEN H. LOWE	3COM-2496.IP	9263

7590 07/11/2005

WAGNER MURABITO & HAO LLP
TWO NORTH MARKET STREET
THIRD FLOOR
SAN JOSE, CA 95113

EXAMINER

PATEL, NITIN C

ART UNIT PAPER NUMBER

2116

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/371,463

Applicant(s)

LOWE ET AL

Examiner

Nitin C. Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in responsive to request for continued examination [RCE] filed on 8 June 2005.

Terminal Disclaimer

The terminal disclaimer filed on 8 June 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent 6,606,327 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because margins are not acceptable as per notice of draft person's patent drawing review dated 2 October 1999. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

2. Claims 2, and 16 are objected to because of the following informalities:
 3. In the claim 2, replace letter "b" after the word packet in line 3 with ---by---.
 4. In the claim 16, replace letter "b" after the word packet in line 3 with ---by---.
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 8, and 15 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has failed to specifically point out support for amended matter "unforced collision" to the claims 1,8,and 15 in specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishna et al. [hereinafter as Krishna], US Patent 5,822,538, and further in view of Brown, US Patent 5,268,899.

7. As to claims 1, 8, and 15, Krishna discloses a method and apparatus for providing priority to a peripheral component [media interface card] [prioritizing traffic in half-duplex network] in a congested network, comprising: (a) detecting [sensing] an unforced [regular] collision of a data packet by a peripheral component [media interface

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card] coupled to [on] network [col. 2, lines 19 – 20]; (b) determining a restricted back off time [col. 2, lines 20 – 31], which is substantially equal or less than [less than or equal to] a restricted time value [predetermined number] [col. 2, lines 20 – 31, 49 – 64] and produced by multiplying the randomized number of time slots with fractional coefficient [col. 5, lines 5 – 21]; and (c) causing peripheral component to wait [step 84, in fig. 2B] for restricted back off time before retrying to retransmit data over network [col. 2, lines 13 – 64, col. 3, lines 23 – 50, col. 4, lines 20 – 67, col. 5, lines 1 – 67, col. 6, lines 1 – 44, fig. 2A-2B].

However, Krishna does not teach to use random number generator function to generate random number.

Brown teaches an apparatus and method for generating pseudo-random numbers in a communication system involving in shared resource, and particularly to determine back off time [length of back off intervals in CSMA/CD network] with a pseudo random generator for communication network including a CSMA/CD network based on a circuit which supplies a pseudo random signal which normally changes according to a first algorithm [first variable of random generator function], and changes according to a second algorithm [second variable of random generator function] during the intervals having a duty cycle behavior known to vary from node-to-node including collision detection logic [31], back off interval control [37] including back off control logic [38], back off timer [39], and a pseudo random number generator [40][col. 1, lines 9 – 13, col. 2, lines 33 – 67, col. 3, lines 1 – 37, col. 4, lines 13 – 57, col. 5, lines 3 – 67, col. 6, lines 1 – 67, col. 7, lines 1 – 32, fig. 2].

It would have been obvious to one of ordinary skill in art, having the teachings of Krishna and Brown before him at the time of invention was made, to modify the network interface [10] disclosed by Krishna to include a pseudo random number generator as taught by Brown, in order to obtain CSMA/CD networks with a pseudo random number generator which can be used in controlling nodes in network that is unlikely to operate in lock-step which improves performance of communication system by reducing the number of collisions on communication medium [col. 3, lines 37 – 51].

8. As to claims 2 - 5, 9 - 12, and 16 - 19, Krishna discloses providing priority [prioritizing] to peripheral component including detecting [sensing] collision during transmission in local area network (LAN) architecture operating in accordance carrier sense, multiple access/collision detect (CSMA/CD) bus access protocol (IEEE 802.3/150 8802-3) in a LAN station in Ethernet network with different peripheral components including Network Interface Card [NIC], half-duplex Network Interface Card [title] [col. 1, lines 1 - 25, col. 2, lines 17 – 20, and 47 – 50].

9. As to claims 6 - 7, 13 - 14, 20 - 21, Brown teaches determining restricted back off time [length of back off interval] associated with an Ethernet network based on a number generated by a random number generator function [col. 1, lines 9 - 14, col. 2, lines 33 – 67, col. 3, lines 1 – 37, col. 7, lines 24 - 32].

Response to Arguments

10. Applicant's arguments with respect to claims 1 -21 have been considered but are moot in view of the new ground of rejection.

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11. Regarding 112 rejection applicant's statement, "amended claims 1, 8, and 15 rendering the 112 rejection of these Claims moot"; the examiner is unable to understand how amended limitation "random number generator function" is related to "unforced collision". Applicant is requested to point out where "unforced collision" is located in specification.

12. **Examiner's note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

13. **Prior Art not relied upon:** Please refer to the references listed in attached PTO-892, which, are not relied upon for claim rejection since these references are relevant to the claimed invention.

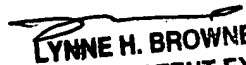
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nitin C. Patel whose telephone number is 571-272-3675. The examiner can normally be reached on 6:45 am - 5:15 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nitin C. Patel
July 6, 2005


LYNNE H. BROWNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100